

THE PETROLEUM ACT
ARRANGEMENT OF SECTIONS

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SCHEDULE

(2) Any exploration or development of petroleum resources or the acquisition of any right, title, interest or estate in any petroleum in the exclusive economic zone shall be subject to the provisions of the Exclusive Economic Zone Act or any order made under section 11 of that Act.

33/1991
S. 22.

PART III. *The Petroleum Corporation of Jamaica*

5.—(1) There shall be established for the purposes of this Act a body to be called the Petroleum Corporation of Jamaica which shall be a body corporate to which section 28 of the Interpretation Act shall apply.

Establishment of the Petroleum Corporation of Jamaica.

(2) The provisions of the Schedule shall have effect as to the constitution of the Corporation and otherwise in relation thereto.

Schedule.

6.—(1) Subject to the provisions of subsections (2) and (3), the Corporation shall have the exclusive right to explore and develop the resources of petroleum which are vested by section 3 in the Crown.

Functions of the Corporation.

(2) Subject to the provisions of this Act the Corporation may, for the purposes of performing any of its functions under this Act, do anything and enter into any transaction which, in the opinion of the Corporation, is necessary to ensure the proper performance of its functions.

(3) In particular, and without prejudice to the generality of the provisions of subsections (1) and (2), the Corporation may—

- (a) either alone or in association with contractors, explore, develop and manage petroleum resources;

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- (b) enter into agreements or arrangements providing for the participation, assistance or co-operation of contractors in connection with the exploration, development or management of petroleum resources;
- (c) either alone or in association with contractors, acquire, construct, maintain, manage or operate any refining or processing facilities, marketing facilities or outlets of any kind and type, pipelines, tankers, trucks and other facilities for the transportation of petroleum and petroleum products, and any other facilities related to the processing, refining, storage, exchange, sale or distribution of petroleum and petroleum products;
- (d) either alone or in association with contractors, buy, sell, store, trade, barter, exchange, import and export petroleum and petroleum products; and
- (e) with the approval of the Minister, form subsidiary corporations under the Companies Act to carry on any of the activities which the Corporation has power under this Act to carry on.

(4) The term of any agreement or arrangement made pursuant to paragraph (b) of subsection (3) shall not exceed twenty-five years, but any such agreement or arrangement may be renewed for further terms, not exceeding twenty-five years in the case of each renewal.

(5) The Corporation shall—

- (a) promote an orderly and rational development of the petroleum resources of Jamaica;
- (b) endeavour to ensure that Jamaica receives the greatest benefits obtainable from the exploitation of its petroleum resources;

- (c) promote the training of Jamaican personnel in all aspects of the exploration, development and management of petroleum resources and of the processing, refining, storage, sale and distribution of petroleum and petroleum products;
- (d) promote the development in Jamaica of technology relating to the exploration, development and management of, petroleum resources and to the processing, refining, storage and distribution of petroleum and petroleum products;
- (e) endeavour to ensure the effective transfer to Jamaica of technology relating to the matters specified in paragraph (d);
- (f) ensure that operations in relation to the exploration and development of petroleum resources, and any other operations ancillary to those operations, are conducted in such a manner as to prevent and minimize accidents and to prevent adverse effects on the environment and other resources of Jamaica;
- (g) advise the Minister on all matters in respect of which he seeks from the Corporation advice in relation to exploration, development and management of petroleum resources and to the processing, refining, storage, marketing and importation of petroleum and petroleum products.

(6) The Minister may by order, which shall be subject to affirmative resolution, extend the functions of the Corporation to include such energy resources other than petroleum, as the order shall specify; and such order may contain such consequential or ancillary provisions as the Minister may consider necessary or desirable.

7.—(1) The Minister may, after consultation with the chairman, give to the Corporation directions of a general character as to the policy to be followed in the performance

Policy
directions
and
guidelines.

of any of its functions in relation to matters appearing to him to concern the public interest and the Corporation shall give effect to any such directions.

(2) The Minister may from time to time issue for use by the Corporation, guidelines pertaining to substantive matters to be included in the agreements or arrangements described in paragraph (b) of subsection (3) of section 6.

Borrowing
powers.

8.—(1) Subject to the provisions of subsection (2), the Corporation may borrow sums required by it for meeting any of its obligations or discharging any of its functions.

(2) The power of the Corporation to borrow in excess of such limits as the Minister responsible for finance may from time to time fix, shall be exercisable only with the approval of the Minister after consultation with the Minister responsible for finance as to the amount, source of borrowing and the terms on which the borrowing may be effected, and an approval given in any respect for the purposes of this subsection may be either general or limited to a particular borrowing or otherwise, and may be either unconditional or subject to conditions.

Advances,
grants
and guar-
antee of
borrowing.

9.—(1) The Minister may from time to time make advances and grants to the Corporation out of moneys provided by Parliament for the purpose.

(2) With the approval of the House of Representatives the Minister responsible for finance may guarantee, in such manner and on such conditions as he thinks fit, the repayment of the principal and the payment of interest on any authorized borrowings of the Corporation made otherwise than by way of advance under subsection (1).

(3) Where the Minister responsible for finance is satisfied that there has been default in the repayment of any principal moneys or the payment of interest guaranteed under the provisions of this section he shall direct the re-

payment or, as the case may be, the payment, out of the Consolidated Fund of the amount in respect of which there has been such default and any such repayment or payment shall be a charge on the Consolidated Fund.

10. The Corporation shall make to the Accountant-General, at such times and in such manner as the Minister may direct, payments of such amounts as may be so directed in or towards repayment of advances made to the Corporation under subsection (1) of section 9 and of any sums issued in fulfilment of any guarantee given under that section, and payments of interests on any sum outstanding for the time being in respect of such advances and of any sums so issued at such rate as the Minister may direct, and different rates of interest may be directed as respects different advances or sums and as respects interest for different periods.

Repayment of, and interest on, advances and sums issued to meet guarantees.

11. The Corporation, with the approval of the Minister and the Minister responsible for finance—

Securities.

- (a) may create and issue stock including debentures and bonds, for the purpose of exercising its borrowing powers under section 8;
- (b) shall establish a sinking fund for the redemption of debentures so created;
- (c) may suspend sinking fund contributions for such period or periods of time and subject to such conditions as may be approved.

12.—(1) The Corporation shall establish and maintain a reserve fund to meet contingencies and for such other purposes as it may think fit.

Reserve fund.

(2) The management of the reserve fund, the sums to be carried from time to time to the credit thereof, the charges to be made against it and any other application of the moneys comprised therein shall be as the Corporation may determine.

Accounts
and
audit.

13.—(1) The Corporation shall keep proper accounts and other records in relation to its business and shall prepare annually a statement of accounts in a form satisfactory to the Minister, being a form which conforms with established accounting principles.

(2) The accounts of the Corporation shall be audited annually by an auditor or auditors appointed annually by the Corporation and approved by the Minister.

(3) The Auditor-General shall be entitled, on the general directions of the Minister, at all reasonable times to examine the accounts and other records in relation to the business of the Corporation.

Annual
reports
and
estimates.
11/1990
S. 2.

14.—(1) The Corporation shall, in each year—

(a) on or before the 15th day of June, submit to the Minister a report of its activities during the twelve months ending on the 31st day of March in that year, including a statement of its accounts audited in accordance with the provisions of section 13;

(b) on or before the 15th day of January, submit to the Minister for his approval its estimates of revenue and expenditure for the financial year commencing on the 1st day of April of that year.

(2) The Minister shall cause a copy of the report together with the annual statement of accounts and the auditor's report thereon and on the accounts to be laid on the Tables of the House of Representatives and of the Senate and to be published in the *Gazette*.

Exemptions
from cus-
toms duty,
stamp duty
and tax.
12/1985
Sch.
16/1991
S. 64.

15.—(1) No customs duty or other similar impost, or general consumption tax shall be payable upon any prescribed article imported into Jamaica, or taken out of bond in Jamaica, by the Corporation and shown to the satisfaction of the Commissioner of Customs and Excise to be required for the use of the Corporation in the performance of its functions under this Act.

(2) For the purposes of subsection (1) a prescribed article shall be deemed to be imported into Jamaica, or taken out of bond in Jamaica, by the Corporation for the use of the Corporation in the performance of its functions under this Act if the **Commissioner of Customs and Excise** is satisfied that—

12/1985
Sch.

- (a) that article is imported into Jamaica, or taken out of bond in Jamaica, by a contractor at any time within ten years next after the specified day;
- (b) that article will be used solely for the purpose of **performing work in respect of the contractor's obligations to the Corporation and will, upon the conclusion of that work, either be disposed of by the contractor to the Corporation or be re-exported by the contractor; and**
- (c) the contractor has given security to the satisfaction of the **Commissioner of Customs and Excise.**

12/1985
Sch.

(3) In subsection (2) “ the specified day” means, in relation to any contractor, such day as the Corporation may specify in a **certificate to the Commissioner of Customs and Excise as the day on which an agreement between the Corporation and the contractor comes into force.**

12/1985
Sch.

(4) All instruments executed by or on behalf of the Corporation, including documents used in connection with the importation into Jamaica of any article referred to in subsection (1), shall be exempt from stamp duty.

(5) The Minister may by order, which shall be subject to affirmative resolution of the House of Representatives, extend the period specified by subsection (2).

16.—(1) An article which is imported into Jamaica, or taken out of bond in Jamaica, free of customs duty or other similar impost, or general consumption tax pursuant to the provisions of section 15 shall not, without the prior approval in writing of the Minister responsible for finance,

Customs
duty and
tax to be
paid in
certain
circum-
stances.
16/1991
S. 64.

16/1991
S. 64.
12/1985
Sch.

be sold or given away at any time within five years next after the date on which it was imported into Jamaica or taken out of bond in Jamaica, as the case may be, except to a person who under the provisions of this Act would have been entitled to import that article into Jamaica, or take it out of bond in Jamaica, free of customs duty or other similar impost, or general consumption tax, unless at the time when that article is so sold or given away the Commissioner of Customs and Excise is paid all sums which would have been payable in respect of customs duty or other similar impost, or general consumption tax in respect of the importation into Jamaica or the taking out of bond in Jamaica of that article if it had not been so imported or taken out of bond free of customs duty or other similar impost, or general consumption tax.

16/1991
S. 64.

(2) Where any article which is imported into Jamaica, or taken out of bond in Jamaica, free of customs duty or other similar impost, or general consumption tax pursuant to the provisions of section 15 is sold or given away otherwise than in accordance with the provisions of subsection (1), that article shall be forfeited to the Crown, and the persons by whom and to whom it is sold or given away shall be guilty of an offence and shall each be liable on summary conviction before a Resident Magistrate to a penalty of three times the value of the article so sold or given away or one thousand dollars (whichever is the greater) and in default of payment to imprisonment for a term not exceeding twelve months.

16/1991
S. 64.

Power to
appoint
a chief
executive
officer,
secretary
and other
staff and
agents.

17.—(1) The Corporation may appoint and employ, at such remuneration and on such terms and conditions as it thinks fit, a chief executive officer, a secretary and such other officers, agents and servants as it thinks necessary for the proper performance of its functions.

(2) The Governor-General may, subject to such conditions as he may impose, approve of the appointment of any public officer in the service of the Government to any office with the Corporation, and any public officer so appointed shall, in relation to pension, gratuity or other allowance, and in relation to other rights as a public officer, be treated as continuing in the service of the Government.

PART IV. *Miscellaneous*

18. The Minister shall, as soon as is practicable after the Corporation has made an agreement or arrangement pursuant to paragraph (b) of subsection (3) of section 6, by order declare the contractor with whom that agreement or arrangement was made to be a specified contractor for the purposes of this Part.

Specified contractors.

19. Subject to the provisions of this Act the Corporation and any specified contractor shall have the right to enter any land and carry out thereon any operations connected with the exploration or development of petroleum resources.

General rights to enter land and carry out operations thereon.

20.—(1) The Corporation or a specified contractor shall not less than fourteen days before the Corporation or the contractor enters any land pursuant to section 19—

Notice to owner and occupier of land, and security for compensation.

- (a) give to the owner and the occupier of the land notice of the intention so to do and of the operations which are intended to be carried out on the land;
- (b) if so required by the owner, occupier, or the Minister, lodge with the Accountant-General such sum or give such security as the Minister may direct for the payment of any compensation which may be payable under section 21.

[The inclusion of this page is authorized by L.N. 57/1980]

(2) Upon the termination of the operations in respect of which any sum was lodged or any security was given in accordance with a requirement under subsection (1), the person who lodged that sum or gave that security may apply in writing to the Minister for the refund of that sum or the balance thereof or for the release of that security, as the case may require, and the Minister may—

- (a) authorize the refund or release if he is satisfied that the refund or release should be made; or
- (b) refuse to authorize the refund or release until such time as he is satisfied that the refund or release should be made.

(3) The making of a refund or release under subsection (2) shall be without prejudice to any claim or proceeding for compensation under section 21 which has arisen or may arise against the person to whom the refund or release is made.

(4) Sums lodged under this section may be otherwise dealt with in such manner as may be prescribed.

Compensation to owner and occupier of land.

21.—(1) The Corporation or a specified contractor shall, upon the demand of the owner or occupier of any land on which the Corporation or that contractor has carried out, or is carrying out, operations pursuant to section 19, pay that owner or occupier fair and reasonable compensation for any disturbance of his surface rights and for any damage done to the surface of the land or to any live or dead stock, crops, trees, buildings or works as a result of those operations.

(2) The amount of compensation payable under subsection (1) shall be determined by agreement between the parties or, if the parties are unable to reach agreement, any of them may take proceedings in the Resident Magistrate's Court without limit of amount.

(3) If the compensation determined by agreement in accordance with subsection (2) is not paid, the owner or occupier may take proceedings in the Resident Magistrate's Court for an order for payment without limit of amount.

(4) The sum awarded by the Resident Magistrate, or when there has been an appeal, by the Court of Appeal, shall be paid by the person against whom the award was made to the person entitled to that sum, within fourteen days after the date of the award.

(5) Without prejudice to any other means of recovery if the sum awarded is not paid within the time specified in subsection (4) it may, on application to the Minister, be paid out of the sum, if any, lodged in accordance with section 20.

(6) The Minister may, by notice to any person who has failed to pay any sum awarded under this section, suspend the rights of that person to carry on operations on the land pursuant to section 19 until he pays that sum and lodges with the Accountant-General such further sum as the Minister may demand as security for any future compensation payable.

(7) Where it is not practicable, after reasonable enquiry, to ascertain the name or address of the owner or occupier of any land on which the Corporation or a specified contractor has carried out, or is carrying out, operations pursuant to section 19, the Corporation or that contractor, as the case may require, shall apply to the Resident Magistrate's Court for determination of the amount of compensation payable to that owner or occupier without limit of amount.

22. [*Deleted by Act 36 of 1995, Sch.*]

23. [*Deleted by Act 36 of 1995, Sch.*]

24. [*Deleted by Act 36 of 1995, Sch.*]

25. [*Deleted by Act 36 of 1995, Sch.*]

Regula-
tions.

26.—(1) The Minister may make regulations generally for the proper carrying out of the provisions and purposes of this Act, and in particular, but without prejudice to the generality of the foregoing, may make regulations—

- (a) for ensuring safe construction, maintenance and operation of installations and facilities used in connection with operations in relation to petroleum resources, and for safe practices in the exploration and development of, those resources;
- (b) providing for the safety, health and welfare of persons employed in operations in relation to petroleum resources and generally for safety measures of all kinds;
- (c) for the prevention of pollution and the taking of remedial action in respect of any pollution which occurs;
- (d) for the inspection of areas in which operations in relation to petroleum resources are carried on and of any plant, machinery, installations and facilities within those areas;
- (e) for the reporting of, and inquiries into, accidents;
- (f) providing for the keeping and inspection of records, books, accounts, statistics and plans;
- (g) for the relinquishment of portions of areas to which agreements or arrangements made pursuant to paragraph (b) of subsection (3) of section 6 in respect of development of petroleum resources apply;
- (h) providing for the protection of fishing, navigation and other activities carried on within, or in the vicinity of areas in which operations in relation to petroleum resources are carried on;
- (i) providing for the making of reports and returns;

- (j) prescribing standards for petroleum and petroleum products and for the transportation of petroleum and petroleum products;
- (k) prescribing, subject to the provisions of subsection (2), the rates of royalties to be paid to the Government, the method of calculation of the amount of those royalties, and the manner and time of payment thereof;
- (l) prescribing the size of the area which may be allocated to any specified contractor for the purposes of exploration;
- (m) providing for the determination of the value of oil and natural gas after taking into account all relevant factors;
- (n) requiring the Corporation to submit to the Minister, at such times and in respect of such periods as the regulations shall specify, the investment programmes of the Corporation;
- (o) providing for the conservation of petroleum and other energy resources and the avoidance of unnecessary waste of such resources;
- (p) prescribing any other matter or anything which may be, or is required by this Act to be, prescribed.

(2) Regulations made under this section shall not prescribe any rate of royalty which is lower than 12½ per cent of the value of oil produced, as determined in the prescribed manner.

27. Any person who—

Offences.

- (a) unlawfully interferes with or obstructs the Corporation, any contractor or their servants or agents in the exercise of any right under this Act;

(b) wilfully obstructs, hinders or assaults any other person in the exercise or execution of any right, power or duty under this Act; or

(c) contravenes any of the provisions of this Act, shall be guilty of an offence and shall be liable on summary conviction before a Resident Magistrate to a fine not exceeding one thousand dollars or to imprisonment for a term not exceeding twelve months, or to both such fine and imprisonment.

Extension
of laws of
Jamaica to
certain
areas and
vessels.
33/1991
S. 22.

28. The laws of Jamaica extend—

- (a) to the continental shelf;
- (b) to the exclusive economic zone;
- (c) to all artificial islands and other structures built on the areas mentioned in paragraphs (a) and (b), and any vessels stationed over those areas, for the purpose of exploring for or developing petroleum resources or removing or transporting therefrom any petroleum or petroleum product,

to the same extent as if the continental shelf and those areas, islands, structures or vessels (hereinafter referred to as the maritime extensions) were located in Jamaica; and for the purposes of the jurisdiction of any court in Jamaica any such maritime extension shall be treated as if it were located in the parish in which proceedings are brought.

SCHEDULE

(Section 5)

1. The Corporation shall consist of such number of persons, not being less than five nor more than twelve, as the Minister may from time to time determine. Constitution of the Corporation.
2. The members of the Corporation shall be appointed by the Minister by instrument in writing and, subject to the provisions of this Schedule, shall hold office for such period, not exceeding two years, as the Minister may direct, but shall be eligible for reappointment. Appointment of members.
3. The Minister shall appoint one of the members of the Corporation to be the chairman thereof. Chairman.
4. The Minister may grant to any member of the Corporation leave of absence in respect of his duties as a member of the Corporation. Leave of absence.
5. If the chairman or any other member of the Corporation is absent or unable to act, the Minister may appoint any person to act in the place of the chairman or such other member. Acting appointments.
- 6.—(1) Any member of the Corporation, other than the chairman, may at any time resign his office by instrument in writing addressed to the Minister and transmitted through the chairman, and from the date of receipt by the Minister of that instrument, that member shall cease to be a member of the Corporation. Resignations.
- (2) The chairman may at any time resign his office by instrument in writing addressed to the Minister, and such resignation shall take effect as from the date of receipt by the Minister of that instrument.
7. The Minister may at any time revoke the appointment of any member of the Corporation if he thinks it expedient so to do. Revocation of appointments.
8. The names of all members of the Corporation as first constituted and every change in membership thereof shall be published in the *Gazette*. Gazetting of appointments.
- 9.—(1) The seal of the Corporation shall be kept in the custody of the chairman or the secretary and shall be affixed to instruments pursuant to a resolution of the Corporation in the presence of the chairman, or any other member of the Corporation, and the secretary. Seal, and execution of documents.
- (2) The seal of the Corporation shall be authenticated by the signatures of the chairman, or any other member authorized to act in that behalf, and the secretary.
- (3) All documents, other than those required by law to be under seal, made by, and all decisions of, the Corporation may be signified under the hands of the chairman, or any other member authorized to act in that behalf, and the secretary.

Procedure
and meet-
ings.

10.—(1) The Corporation shall meet at such times as may be necessary or expedient for the transaction of its business, and such meetings shall be held at such places and times and on such days as the Corporation may determine.

(2) The chairman may at any time call a special meeting of the Corporation and shall call a special meeting within seven days of the receipt of a written requisition for that purpose addressed to him by any two members of the Corporation.

(3) The chairman shall preside at all meetings of the Corporation at which he is present, and in the case of his temporary absence the members present and constituting a quorum shall elect a chairman from among their number to preside at the meeting.

(4) The quorum of the Corporation shall be such number as the Minister may from time to time determine, but shall not be less than one-half the total number of members of the Corporation.

(5) The decisions of the Corporation shall be by a majority of votes and, in addition to an original vote, the chairman or other person presiding at the meeting shall have a casting vote in any case in which the voting is equal.

(6) Minutes in proper form of each meeting of the Corporation shall be kept and shall be confirmed as soon as practicable thereafter at a subsequent meeting.

(7) The validity of the proceedings of the Corporation shall not be affected by any vacancy amongst the members thereof or by any defect in the appointment of a member thereof.

(8) Subject to the provisions of this Schedule, the Corporation may regulate its own proceedings.

Power to
delegate.

11.—(1) The Corporation may delegate to any member or committee thereof such of the functions of the Corporation as the Corporation may decide.

(2) Every delegation under this paragraph shall be revocable by the Corporation and no delegation shall prevent the exercise by the Corporation of any function delegated.

Disclosure
of interest.

12. A member of the Corporation who is directly or indirectly interested in a contract made or proposed to be made by the Corporation—

- (a) shall disclose the nature of his interest at a meeting of the Corporation; and
- (b) shall not take part in any deliberation or decision of the Corporation with respect to that contract.

13.—(1) No member of the Corporation shall be personally liable for any act or default of the Corporation done or omitted to be done in good faith in the course of the operation of the Corporation. Protection of members.

(2) Where any member of the Corporation is exempt from liability by reason only of the provisions of this paragraph the Corporation shall be liable to the extent that it would be if the member was a servant or agent of the Corporation.

14. There shall be paid from the funds of the Corporation to the chairman and other members of the Corporation such remuneration whether by way of honorarium, salary or fees, and such allowances as the Minister may determine. Remuneration of members.

15. The office of the chairman or member of the Corporation shall not be a public office for the purpose of Chapter V of the Constitution of Jamaica. Office of member not a public office.

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